

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

SOUTH DAKOTA NETWORK, LLC, <p style="text-align: center;">Plaintiff,</p> vs. TWIN CITY FIRE INSURANCE COMPANY CO., <p style="text-align: center;">Defendant.</p>	Case: 16-CV-4031 <p style="text-align: center;">DEFENDANT TWIN CITY FIRE INSURANCE COMPANY’S MOTION FOR SUMMARY JUDGMENT</p>
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NOW COMES the Defendant, Twin City Fire Insurance Company, (hereinafter referred to as “Twin City”), by its attorney, Melanie Carpenter of Woods Fuller Shultz & Smith P.C. and Michael J. Duffy and Ashley L. Conaghan of Wilson Elser Moskowitz, Edelman & Dicker LLP, and for its Motion for Summary Judgment, states as follows:

1. This is an insurance coverage dispute in which South Dakota Network, LLC (“SDN”) seeks a declaration that Twin City owes a duty to defend SDN under insurance contracts issued by Twin City to SDN in a suit filed against it by James Valley Cooperative Telephone Company (“JVCTC”), James Valley Communications, Inc., and Northern Valley Communications LLC (“NVC”)(collectively referred to as “JVC”) styled as *James Valley Cooperative Telephone Company et. al. v. South Dakota Network LLC et. al.*, Case No. Civ 15-000134 pending in Brown County, South Dakota (“JVC Lawsuit”). Related to Twin City’s denial of coverage, SDN has also claimed breach of contract, bad faith and vexatious refusal to pay and violation of public policy in its Complaint.

2. For the reasons set forth in its Memorandum in Support of its Motion for Summary Judgment and its Statement of Facts, Twin City seeks summary judgment on SDN's Complaint for Declaratory Judgment.

3. The undisputed facts and applicable law demonstrate that the Twin City Policies provide no coverage to SDN for the claims against it in the *JVC* Lawsuit because SDN failed to give timely notice, thereby breaching the policy's notice requirements.

WHEREFORE, Defendant, Twin City Fire Insurance Company, requests this Court grant judgment in its favor and against Plaintiff finding and declaring that:

- A. Twin City owes no duty to defend or indemnify SDN for *JVC* Lawsuit; and
- B. For all such just and equitable relief, including an award of costs.

Respectfully submitted,

By: /s/Melanie Carpenter

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12th day of October 2016, I served copies of the foregoing **Defendant Twin City Fire Insurance Company's Motion for Summary Judgment**, to the below listed parties via ECF:

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